

Amendments to the Claims

Claim 1 (Currently amended): Seed of hybrid maize variety ~~Hybrid maize seed~~ designated 39J26, representative seed of said ~~hybrid 39J26 variety~~ having been deposited under ATCC Accession number PTA-4266.

Claim 2 (Previously presented): A maize plant, or a part thereof, produced by growing the seed of claim 1.

Claim 3 (Original): Pollen of the plant of claim 2.

Claim 4 (Original): An ovule of the plant of claim 2.

Claims 5-62 (Canceled)

Claim 63 (Previously presented): A tissue culture of regenerable cells produced from the plant of claim 2.

Claim 64 (Previously presented): Protoplasts produced from the tissue culture of claim 63.

Claim 65 (Previously presented): The tissue culture of claim 63, wherein cells of the tissue culture are from a tissue selected from the group consisting of leaf, pollen, embryo, root, root tip, anther, silk, flower, kernel, ear, cob, husk and stalk.

Claim 66 (Previously presented): A maize plant regenerated from the tissue culture of claim 63, said plant having all the morphological and physiological characteristics of hybrid maize plant 39J26, representative seed of said plant having been deposited under ATCC Accession No. PTA-4266.

Claim 67 (Previously presented): A method for producing an F1 hybrid maize seed, comprising crossing the plant of claim 2 with a different maize plant and harvesting the resultant F1 hybrid maize seed.

Claims 68-82 (Canceled)

Claim 83 (Previously presented): A maize plant, or part thereof, having all the physiological and morphological characteristics of the hybrid maize plant 39J26, representative seed of said plant having been deposited under ATCC Accession No. PTA-4266.

Claim 84 (Currently amended): A method of introducing a desired trait into a hybrid maize ~~line~~ variety 39J26 comprising:

(a) crossing at least one of inbred maize parent plants GE515243 and GE515344, representative samples of which have been deposited under ATCC Accession Nos. as PTA-4280 and PTA-4342 respectively, with another maize line that comprises a desired trait, to produce F1 progeny plants, wherein the desired trait is selected from the group consisting of male sterility, herbicide resistance, insect resistance, disease resistance and waxy starch;

(b) selecting said F1 progeny plants that have the desired trait to produce selected F1 progeny plants;

(c) backcrossing the selected progeny plants with said inbred maize parent plant to produce backcross progeny plants;

(d) selecting for backcross progeny plants that have the desired trait and morphological and physiological characteristics of said inbred maize parent plant;

(e) repeating the steps (c) and (d) of backcrossing to said inbred maize parent plant three or more times in succession to produce selected fourth or higher backcross progeny plants;

(f) crossing said ~~fourth or higher~~ backcross progeny plant with the other inbred maize parent plant to generate a hybrid maize ~~line~~ variety 39J26 with the desired trait and all of the morphological and physiological characteristics of hybrid maize ~~line~~ variety 39J26 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 85 (Currently amended): A plant produced by the method of claim 84, wherein the plant has the desired trait and all of the physiological and morphological characteristics of hybrid maize ~~line~~ variety 39J26 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 86 (Previously presented): The plant of claim 85 wherein the desired trait is herbicide resistance and the resistance is conferred to an herbicide selected from the group consisting of: imidazolinone, sulfonylurea, glyphosate, glufosinate, L-phosphinothricin, triazine and benzonitrile.

Claim 87 (Previously presented): The plant of claim 85 wherein the desired trait is insect resistance and the insect resistance is conferred by a transgene encoding a *Bacillus thuringiensis* endotoxin.

Claim 88 (Previously presented): The plant of claim 85 wherein the desired trait is male sterility and the trait is conferred by a cytoplasmic nucleic acid molecule that confers male sterility.

Claim 89 (Currently amended): A method of modifying fatty acid metabolism, phytic acid metabolism or carbohydrate metabolism in a hybrid maize ~~line~~ variety 39J26 comprising:

- (a) crossing at least one of inbred maize parent plants GE515243 and GE515344, representative samples of which have been deposited under ATCC Accession Nos. as PTA-4280 and PTA-4342 respectively, with another maize line that comprises a nucleic acid molecule encoding an enzyme-selected from the group consisting of phytase, stearyl-ACP desaturase, fructosyltransferase, levansucrase, alpha-amylase, invertase and starch branching enzyme;
- (b) selecting said F1 progeny plants that have said nucleic acid molecule to produce selected F1 progeny plants;
- (c) backcrossing the selected progeny plants with said inbred maize parent plant to produce backcross progeny plants;

- (d) selecting for backcross progeny plants that have said nucleic acid molecule and morphological and physiological characteristics of said inbred maize parent plant;
- (e) repeating ~~the steps (c) and (d) of backcrossing to said inbred maize parent plant~~ three or more times in succession to produce selected fourth or higher backcross progeny plants;
- (f) crossing said fourth or higher backcross progeny plant with the other inbred maize parent plant to generate a hybrid maize ~~line~~ variety 39J26 that comprises said nucleic acid molecule and has all of the morphological and physiological characteristics of hybrid maize ~~line~~ variety 39J26 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 90 (Currently amended): A plant produced by the method of claim 89, wherein the plant has modified fatty acid metabolism, modified phytic acid metabolism or modified carbohydrate metabolism and all of the physiological and morphological characteristics of hybrid maize ~~line~~ variety 39J26 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 91 (Previously presented): A method for producing a maize seed, comprising crossing the plant of claim 2 with itself or a different maize plant and harvesting the resultant maize seed.